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IN THE COURT OF APPEALS OF INDIANA

KEVIN HUFFER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 34A02-0605-CR-364
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE HOWARD SUPERIOR COURT
The Honorable Douglas A. Tate, Judge
Cause No. 34D03-0602-FD-195

February 22, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Chief Judge

Kevin Huffer, *pro se,* pled guilty to operating a vehicle while intoxicated endangering a person[1] as a Class A misdemeanor, operating a vehicle while intoxicated[2] as a Class D felony, and malicious mischief[3] as a Class B misdemeanor. Huffer raises the following restated issue on appeal: whether his sentence is appropriate.

We affirm.

FACTS AND PROCEDURAL HISTORY

On February 12, 2006, an officer with the Russiaville Police Department clocked a vehicle traveling forty-three miles per hour in a thirty-mile-per-hour-speed zone. The officer pulled the vehicle over and upon his approach to the driver's side, he noticed an odor of alcohol. From outside the driver's side of the vehicle, the officer observed two alcoholic containers in plain view.

The driver, Huffer, agreed to submit to a breath test, but before he submitted to the test, Huffer attempted to light a cigarette. The officer instructed Huffer not to ingest anything, but Huffer attempted to light another cigarette. The officer ordered Huffer out of the vehicle, handcuffed him, and administered the breath test. The test result rendered a 0.16% blood alcohol content. Thereafter, Huffer became belligerent, prompting the officer to force him to the ground. The officer sustained two lacerations to his palm, and Huffer sustained a cut to his face. Once the officer was able to get Huffer into his police vehicle, Huffer wiped the blood from the side of his face onto the front passenger headrest.

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[1] *See* IC 9-30-5-2.

[2] *See* IC 9-30-5-3.

[3] *See* IC 35-45-16-2.

The State charged Huffer with counts I-V: I) operating a vehicle while intoxicated endangering a person; II) operating a vehicle while intoxicated as a Class D felony; III) resisting law enforcement; IV) malicious mischief; and V) battery resulting in bodily injury. Huffer, *pro se*, pled guilty to counts I, II, and IV. After the trial court merged counts I and II, it sentenced Huffer to three years imprisonment for the Class D felony, operating a vehicle while intoxicated, with two and a half years executed and six months on probation. For the Class B misdemeanor, malicious mischief, the court imposed six months imprisonment, with six months suspended and six months on probation to run concurrently to his other probation. Huffer now appeals his sentence.

DISCUSSION AND DECISION

Sentencing determinations rest within the discretion of the trial court, and this court will only reverse for an abuse of that discretion. *Akney v. State*, 825 N.E.2d 965, 973 (Ind. Ct. App. 2005). If the sentence imposed is authorized by statute, this court will not reverse unless the sentence is inappropriate based on the character of the offender and the nature of the offense. *Boner v. State*, 796 N.E.2d 1249, 1254 (Ind. Ct. App. 2003); *see also* Ind. Appellate Rule 7(B).

Huffer contends that the trial court failed to give appropriate weight to his guilty plea, and that his sentence is, therefore, inappropriate. We do not agree. A guilty plea does not automatically amount to a significant mitigating factor. *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied*. A guilty plea is not a significant mitigator where the defendant received a substantial benefit from the plea or where the evidence against him suggests that his guilty plea was a pragmatic decision. *Id.* Here,

the evidence against Huffer was overwhelmingly strong in the State's favor. Also, Huffer was originally charged with five counts, and, if convicted, he could have received a total maximum sentence of eight and a half years and a $31,000 fine. Instead, Huffer received a two and a half years executed sentence with six months probation. Further, at the sentencing hearing the prosecutor stated that Huffer should get credit for saving the State a jury trial and recommended two and a half years instead of the three years suggested by the probation officer. *Tr*. at 13.

Next, Huffer asks that we undertake our Indiana Appellate Rule 7(B) review and reduce his sentence based on the nature of the offense and his character. This court may revise a sentence it finds inappropriate even if the trial court followed the proper procedures in imposing the sentence. *Banks v. State*, 841 N.E.2d 654, 658 (Ind. Ct. App. 2006), *trans. denied*. Here, we do not agree that Huffer's sentence deserves revision. Huffer had been arrested and convicted for several battery and alcohol-related offenses throughout his adult life. He had ten known convictions and was facing a Class B felony charge on an unrelated offense at the time of his sentencing. Other than his guilty plea, there is nothing about either his character or the nature of this offense that deserves mitigating weight. As such, Huffer's sentence is not inappropriate.

Affirmed.

RILEY, J., and FRIEDLANDER, J., concur.